

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:20-cv-00415-FDW-DCK

JEANNE MOTON HESPRICH,)	
)	
Plaintiff,)	
)	
vs.)	ORDER
)	and
C.R. BARD, INC., and BARD PERIPHERAL)	NOTICE OF HEARING
VASCULAR, INC.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on sua sponte as to the status of this case. The Report of Mediation filed by letter from the mediator in this matter on August 26, 2021, indicated the parties had “reached a settlement” and advised that “it will take a few months to finalize the release and the liens.” (Doc. No. 19, p. 1). As is the standard practice in this district, the Clerk of Court informed the parties via electronic notice on the same day that “[a]greement for entry of judgment or a stipulation of dismissal to be filed within 30 days or the court will dismiss the case without prejudice. Case Settlement Deadline 9/27/2021.” (Text-Only Docket Entry August 26, 2021). On September 27, 2021, the parties filed a joint motion for extension of time seeking an additional forty-five days, or until November 12, 2021, to file their stipulation of dismissal. (Doc. No. 20). This matter, however, is docketed for trial beginning November 1, 2021, and nothing in the motion sought a stay or continuance of any other deadlines, including trial. It follows that the magistrate judge’s Order granting the extension of time to file the stipulation of dismissal did not stay any deadlines or continue the trial date. (Doc. No. 21). Although it appears the parties will “soon

reach completion” of the settlement process, (Doc. No. 20, p. 2), the Court finds no sufficient basis under the current record to *sua sponte* stay deadlines or continue trial.

Accordingly, counsel is hereby advised they are expected to appear for: 1) docket call at 9:00 a.m., on November 1, 2021; 2) a pretrial conference immediately following docket call; and 3) jury selection on November 2, 2021. The Court will delay opening statements and the presentation of evidence until November 15, 2021, in order to allow the time permitted in the Order granting the extension of time to file a stipulation of dismissal.¹ The parties’ jointly-prepared pretrial submissions required under the Case Management Order in this matter, (Doc. No. 15), shall be due October 29, 2021, which is as late as practicably possible given the trial setting in this matter. Of course, the parties can file their Stipulation of Dismissal any time, including prior to docket call, at which time the Court will remove this case from the trial calendar and terminate the deadlines set forth herein.

IT IS THEREFORE ORDERED that the parties’ jointly-prepared pretrial submissions shall be due October 29, 2021.

TAKE NOTICE that a pretrial conference shall take place in this matter immediately following docket call on November 1, 2021, in Courtroom #5B of the Charles R. Jonas Building, and jury selection will take place with the other matters appearing on the docket for this trial term

¹ The Case Management Order in this case provides:


Whenever a civil action scheduled for a jury trial is settled or otherwise disposed of in advance of the actual trial, the Court may assess all jurors’ costs (including Marshal’s fees, mileage reimbursement, and per diem fees) equally against the parties or otherwise may determine appropriate assessments, unless the Clerk’s office is notified at least one (1) full business day prior to the date on which the action is scheduled for trial or the parties establish good cause why the Court should not assess jury costs against them.

(Doc. No. 15, pp. 13-14). The stipulation of dismissal, if filed on November 12, 2021, must therefore be filed no later than 11:00 a.m. that day to give the Clerk of Court sufficient time during the business day to advise the jurors who are selected that they need not appear for trial on November 15, 2021.

on November 2, 2021. Opening statements and presentation of evidence will start no earlier than November 15, 2021.

IT IS SO ORDERED.

Signed: October 12, 2021


Frank D. Whitney
United States District Judge